

Docket No.: 40134.8001.US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Helou Jr. et al.

Confirmation No. 7142

Application No.: 10/608,441

Art Unit: 1761

Filed: June 27, 2003

Examiner: Thukanh T. Nguyen

Patent No.: 7/481,645

Issued: January 27, 2009

For: METHOD FOR USE IN BAKING ARTICLES
OF MANUFACTURE AND MOLD FOR USE
IN SAID METHOD

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(D)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated on the patent issued January 27, 2009.

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 40134.8001.US00 from which the undersigned is authorized to draw.

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(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 983 days. The PTO's calculated patent term adjustment is 420 days. Applicant is entitled to an additional 563 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 663 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 563 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 0 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 243 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is $663+563-0-243$, which is 983 days.

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(ii) Relevant Dates

A Delay		
Filing Date + 14 Months	8/27/2004	↓
First Office Action	06/21/2006	663
Total		663

B Delay		
Filing Date + 3 Years	6/27/2006	↓
Request for Continued Examination	1/11/2008	563
Total		563

Overlap		
36-Month Date	6/27/2006	
First Office Action	6/21/2006	
Total		0

Reduction		
3-Months from 10/12/06 OA	1/12/2007	↓
Response Filed	4/16/2007	94
3-Months from 7/13/2007 OA	10/13/2007	↓
Response Filed	1/11/2008	90
OA Response	4/16/2007	↓
IDS After OA Response	4/26/2007	10
OA Response	7/14/2008	↓
IDS After OA Response	10/22/2008	43
Misc Letter	12/4/2008	6
Total		243

(iii) Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 243 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704.

Dated: March 27, 2009

Respectfully submitted,

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